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Promotion and protection of human rights: implementation of human rights instruments

Report of the Third Committee*

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I. Introduction

1. At its 2nd plenary meeting, on 18 September 2009, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-fourth session, under the item entitled "Promotion and protection of human rights", the sub-item entitled "Implementation of human rights instruments" and to allocate it to the Third Committee.

2. The Third Committee considered the sub-item at its 20th, 21st, 34th, 41st, 42nd and 47th meetings, on 20 and 29 October and on 12 and 24 November 2009. An account of the Committee's consideration is contained in the relevant summary records (A/C.3/64/SR.20, 21, 34, 41, 42 and 47).

3. For the documents before the Committee under this sub-item, see document A/64/439.

4. At the 20th meeting, on 20 October, the Director of the New York Office of the United Nations High Commissioner for Human Rights made an introductory statement (see A/C.3/64/SR.20).

5. At the same meeting, the Chairperson of the Committee against Torture made a presentation and engaged in a dialogue with the representatives of Chile, China, Egypt, Sweden (on behalf of the European Union) and Ethiopia.

6. The Chairperson of the Subcommittee on Prevention of Torture made a presentation and engaged in a dialogue with the representatives of Mexico, Sweden (on behalf of the European Union), Switzerland, Costa Rica, Turkey, the Czech

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Republic and Chile.

7. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment made a presentation and engaged in a dialogue with the representatives of Sweden (on behalf of the European Union), Austria, China, Switzerland, the Syrian Arab Republic, the United States of America, Uruguay, Liechtenstein, Botswana, Nigeria, New Zealand, Brazil, Togo, the Libyan Arab Jamahiriya and Cuba.

II. Consideration of proposals

A. Draft resolution A/C.3/64/L.22

8. At the 34th meeting, on 29 October, the representative of Finland, on behalf of Albania, Armenia, Australia, Argentina, Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Canada, Chile, Costa Rica, Croatia, the Czech Republic, Denmark, El Salvador, Estonia, Finland, France, Germany, Guatemala, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montenegro, the Netherlands, Norway, Panama, Poland, Portugal, the Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, the United Kingdom of Great Britain and Northern Ireland and Uruguay, introduced a draft resolution entitled "International Covenants on Human Rights" (A/C.3/64/L.22). Subsequently, Cape Verde, the Congo, Honduras and Peru joined in sponsoring the draft resolution.

9. At the 41st meeting, on 12 November, the representative of Finland orally revised the text as follows:

(a) In operative paragraph 3, the word "early" was deleted before the words "entry into force";

(b) In operative paragraph 4, the words "with a view to achieving universal adherence" were deleted at the end of the paragraph and inserted after the words "become parties to the International Covenants on Human Rights";

(c) Operative paragraph 6, which read:

> "6. *Emphasizes* that States must ensure that any measure to combat terrorism complies with their obligations under relevant international law, including their obligations under the International Covenants on Human Rights, and welcomes the reports submitted by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism",

was replaced by:

> "6. *Emphasizes* that States must ensure that any measure to combat terrorism complies with their obligations under relevant international law, including their obligations under the International Covenants on Human Rights";

(d) In operative paragraph 14, the words "urges States parties to the respective Optional Protocol to take duly into account" were inserted before the words "the views adopted by the Human Rights Committee";

(e) Operative paragraph 15, which read:

"15. *Welcomes*, in this regard, measures taken by both Committees to follow up their concluding observations, including the adoption by the Human Rights Committee of a set of proposals to strengthen its follow-up procedure",

was replaced by:

"15. *Takes note with appreciation*, in this regard, of measures taken by both Committees to follow up their concluding observations";

(f) Operative paragraph 24, which read:

"24. *Requests* the Secretary-General to ensure that the Office of the United Nations High Commissioner for Human Rights effectively assists the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in the implementation of their respective mandates by providing, inter alia, adequate Secretariat staff resources and conference and other relevant support services",

was replaced by:

"24. *Requests* the Secretary-General to ensure that the Office of the United Nations High Commissioner for Human Rights and relevant United Nations entities effectively assist the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in the implementation of their respective mandates by providing, inter alia, adequate Secretariat staff resources and conference and other relevant support services, including translation".

10. At the same meeting, the representative of Finland announced that Cape Verde, the Congo and Panama had withdrawn as sponsors of the draft resolution, as orally revised, and that Cyprus, Ecuador, Georgia, Greece, Israel, Maldives, New Zealand, Spain, Ukraine and Venezuela (Bolivarian Republic of) had joined in sponsoring the draft resolution, as orally revised. Subsequently, the Dominican Republic also joined in sponsoring the draft resolution.

11. Also at the same meeting, the representative of Zambia, on behalf of the Group of African States, orally proposed amendments to the draft resolution, by which:

(a) In operative paragraph 9, the words "and takes note of the General Comments adopted by the Committee, including the most recent, General Comment No. 33 on the obligations of States parties under the Optional Protocol" would be deleted;

(b) In operative paragraph 10, the words "and takes note of the General Comments adopted by the Committee, including the most recent, General Comment No. 19 on the right to social security, and General Comment No. 20 on non-discrimination in economic, social and cultural rights" would be deleted.

12. In view of the statement made by the representative of Zambia, the representative of Finland requested separate votes on operative paragraphs 9 and 10.

13. Also at its 41st meeting, the Committee adopted the proposed amendment to operative paragraph 9 by a recorded vote of 70 to 69, with 25 abstentions. The voting was as follows:

In favour:

Algeria, Angola, Belarus, Benin, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cameroon, Cape Verde, China, Comoros, Congo, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Guinea-Bissau, Indonesia, Iran (Islamic Republic of), Iraq, Jordan, Kenya, Kuwait, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Oman, Pakistan, Qatar, Russian Federation, Rwanda, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Togo, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montenegro, Netherlands, New Zealand, Norway, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu.

Abstaining:

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belize, Bhutan, Brazil, Dominica, Fiji, Grenada, Guyana, Haiti, India, Jamaica, Nepal, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Singapore, Suriname, Tajikistan, Thailand, Timor-Leste, Trinidad and Tobago.

14. Before the vote on the amendment, statements were made by the representatives of Finland, Canada, Chile and the United Kingdom; after the vote, statements were made by the representatives of Switzerland and Zambia (on behalf of the Group of African States) (see A/C.3/64/SR.41).

15. At the same meeting, the Committee rejected the proposed amendment to operative paragraph 10 by a recorded vote of 72 to 71, with 23 abstentions. The voting was as follows:

In favour:

Algeria, Angola, Bahrain, Bangladesh, Belarus, Benin, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cameroon, Cape Verde, China, Comoros, Congo, Côte d'Ivoire, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Guinea-Bissau, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica,

Jordan, Kenya, Kuwait, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Oman, Pakistan, Qatar, Rwanda, Saint Lucia, Saudi Arabia, Senegal, Sierra Leone, Solomon Islands, Somalia, South Africa, Sudan, Swaziland, Syrian Arabic Republic, Timor-Leste, Togo, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Monaco, Montenegro, Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of).

Abstaining:

Afghanistan, Antigua and Barbuda, Bahamas, Barbados, Belize, Bhutan, Brazil, Dominica, Fiji, Grenada, Guyana, Haiti, India, Nepal, Russian Federation, Saint Vincent and the Grenadines, Samoa, Singapore, Sri Lanka, Suriname, Tajikistan, Thailand, Trinidad and Tobago.

16. At the 42nd meeting, on 12 November, the Secretary made a statement of clarification.

17. At the same meeting, the Committee adopted draft resolution A/C.3/64/L.22, as orally revised and amended, by a recorded vote of 111 to none, with 66 abstentions (see para. 25, draft resolution I). The voting was as follows:

In favour:

Albania, Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahamas, Barbados, Belgium, Belize, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Grenada, Guatemala, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Liechtenstein, Lithuania, Luxembourg, Maldives, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Samoa, San Marino, Serbia, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia,

Timor-Leste, Trinidad and Tobago, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam.

Against:

None.

Abstaining:

Afghanistan, Algeria, Angola, Bahrain, Bangladesh, Benin, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cameroon, Cape Verde, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Guinea-Bissau, Iran (Islamic Republic of), Iraq, Kenya, Kuwait, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Oman, Pakistan, Qatar, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Seychelles, Sierra Leone, Solomon Islands, Somalia, South Africa, Sudan, Swaziland, Syrian Arab Republic, Togo, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Yemen, Zambia, Zimbabwe.

18. Before the vote, statements were made by the representatives of Finland, Argentina and Zambia (on behalf of the African Group); after the vote, statements were made by the representatives of the United States of America, Indonesia, Iran (Islamic Republic of), Mexico, Jamaica, New Zealand and Pakistan (see A/C.3/64/SR.42).

B. Draft resolution A/C.3/64/L.23 and Rev.1

19. At the 34th meeting, on 29 October, the representative of Denmark, on behalf of Albania, Argentina, Armenia, Australia, Austria, Bangladesh, Belarus, Belgium, Benin, Bosnia and Herzegovina, Bulgaria, Cambodia, Canada, Chile, Costa Rica, Cuba, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, Iceland, Iraq, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montenegro, the Netherlands, New Zealand, Norway, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Togo, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay, introduced a draft resolution entitled "Torture and other cruel, inhuman or degrading treatment or punishment" (A/C.3/64/L.23). Subsequently, Andorra, Azerbaijan, Bolivia (Plurinational State of), Cape Verde, the Congo, Ecuador, El Salvador, Honduras, Kyrgyzstan, Micronesia (Federated States of), Mongolia, Paraguay, Peru, the Republic of Korea, the Republic of Moldova and Timor-Leste joined in sponsoring the draft resolution, which read:

"*The General Assembly*,

"*Reaffirming* that no one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment,

"*Recalling* that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in times of international or

internal armed conflict or disturbance, and that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments,

"*Recalling also* that the prohibition of torture is a peremptory norm of international law and that international, regional and domestic courts have held the prohibition of cruel, inhuman or degrading treatment or punishment to be customary international law,

"*Recalling further* the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, without prejudice to any international instrument or national legislation which contains or may contain provisions of wider application,

"*Emphasizing* the importance of properly interpreting and implementing the obligations of States with respect to torture and other cruel, inhuman or degrading treatment or punishment, and of abiding strictly by the definition of torture contained in article 1 of the Convention,

"*Noting* that under the Geneva Conventions of 1949, torture and inhuman treatment are a grave breach and that under the statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, the statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the Rome Statute of the International Criminal Court, acts of torture can constitute crimes against humanity and, when committed in a situation of armed conflict, constitute war crimes,

"*Emphasizing* that the entry into force as soon as possible of the International Convention for the Protection of All Persons from Enforced Disappearance and its implementation will make a significant contribution to the prevention and prohibition of torture, including by prohibiting secret places of detention, and encouraging all States that have not done so to consider signing, ratifying or acceding to the Convention,

"*Commending* the persistent efforts of civil society organizations, including non-governmental organizations, national human rights institutions and the considerable network of centres for the rehabilitation of victims of torture, to combat torture and to alleviate the suffering of victims of torture,

"1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

"2. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat all acts of torture and other cruel, inhuman or degrading treatment or punishment, stresses that all acts of torture

must be made offences under domestic criminal law, and encourages States to prohibit acts constituting cruel, inhuman or degrading treatment or punishment under domestic law;

"3. *Welcomes* the establishment of national preventive mechanisms to prevent torture, encourages all States that have not yet done so to establish such mechanisms, and calls upon States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to fulfil their obligation to designate or establish truly independent and effective national preventive mechanisms for the prevention of torture;

"4. *Emphasizes* the importance of States ensuring proper follow-up to the recommendations and conclusions of the relevant treaty bodies and mechanisms, including the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment;

"5. *Condemns* any action or attempt by States or public officials to legalize, authorize or acquiesce in torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions;

"6. *Stresses* that the competent authority must promptly, effectively, independently and impartially examine all allegations of torture or other cruel, inhuman or degrading treatment or punishment and wherever there is reasonable ground to believe that such an act has been committed, and that those who encourage, order, tolerate or perpetrate such acts must be held responsible, brought to justice and punished in a manner commensurate with the severity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed;

"7. *Takes note* in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to prevent and combat torture and of the updated set of principles for the protection of human rights through action to combat impunity;

"8. *Calls upon* all States to implement effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment, particularly in places of detention and other places where persons are deprived of their liberty, including education and training of personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;

"9. *Also calls upon* all States to adopt a gender-sensitive approach in the fight against torture and other cruel, inhuman or degrading treatment or punishment, paying special attention to gender-based violence;

"10. *Reminds* States that corporal punishment, including of children, in certain circumstances amounts to cruel, inhuman or degrading treatment or punishment or even to torture, and calls on States to ensure that their domestic legislation is in full conformity with their obligations under international law,

including the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

"11. *Calls upon* States to ensure that the rights of persons with disabilities, bearing in mind the Convention on the Rights of Persons with Disabilities, are fully integrated into torture prevention and protection, and welcomes the efforts of the Special Rapporteur in this regard;

"12. *Encourages* all States to ensure that persons convicted of torture or other cruel, inhuman or degrading treatment or punishment have no subsequent involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty;

"13. *Emphasizes* that acts of torture in armed conflict are serious violations of international humanitarian law and in this regard constitute war crimes, that acts of torture can constitute crimes against humanity and that the perpetrators of all acts of torture must be prosecuted and punished;

"14. *Strongly urges* States to ensure that no statement that is established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment;

"15. *Stresses* that States must not punish personnel for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

"16. *Urges* States not to expel, return ('refouler'), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement;

"17. *Recalls* that, for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights;

"18. *Calls upon* States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to fulfil their obligation to submit for prosecution or extradite those alleged to have committed acts of torture, and encourages other States to do likewise, bearing in mind the need to fight impunity;

"19. *Stresses* that national legal systems must ensure that victims of torture and other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social and medical rehabilitation, urges States to take effective measures to this end, and in this regard encourages the development of rehabilitation centres;

"20. *Recalls* its resolution 43/173 of 9 December 1988 on the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and in this context stresses that ensuring that any individual arrested or detained is promptly brought before a judge or other independent judicial officer in person and permitting prompt and regular medical care and legal counsel as well as visits by family members and independent monitoring mechanisms are effective measures for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

"21. *Reminds* all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished;

"22. *Notes* the concerns about solitary confinement expressed by the Special Rapporteur, emphasizes that conditions of detention must respect the dignity and human rights of detainees, and highlights the importance of reflecting on this in efforts to promote respect for and protection of the rights of detainees;

"23. *Calls upon* all States to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment;

"24. *Urges* all States that have not yet done so to become parties to the Convention as a matter of priority, and calls upon States parties to give early consideration to signing and ratifying the Optional Protocol to the Convention;

"25. *Urges* all States parties to the Convention that have not yet done so to make the declarations provided for in articles 21 and 22 concerning inter-State and individual communications, to consider the possibility of withdrawing their reservations to article 20, and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 with a view to enhancing the effectiveness of the Committee against Torture as soon as possible;

"26. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles and persons with disabilities when submitting reports to the Committee;

"27. *Welcomes* the work of the Committee and its report submitted in accordance with article 24 of the Convention, recommends that the Committee continue to include information on the follow-up by States to its recommendations, and supports the Committee in its intention to further improve the effectiveness of its working methods;

"28. *Invites* the Chairpersons of the Committee and the Subcommittee to present oral reports on the work of the committees and to engage in an

interactive dialogue with the General Assembly at its sixty-fifth session under the sub-item entitled 'Implementation of human rights instruments';

"29. *Calls upon* the United Nations High Commissioner for Human Rights, in conformity with her mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to continue to provide, at the request of States, advisory services for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, including for the preparation of national reports to the Committee and for the establishment and operation of national preventive mechanisms, as well as technical assistance for the development, production and distribution of teaching material for this purpose;

"30. *Welcomes* the interim report of the Special Rapporteur, and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture and other cruel, inhuman or degrading treatment or punishment, including its gender-based manifestations;

"31. *Requests* the Special Rapporteur to continue to consider including in his report information on the follow-up by States to his recommendations, visits and communications, including progress made and problems encountered, and on other official contacts;

"32. *Calls upon* all States to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all information requested by the Special Rapporteur, to fully and expeditiously respond to and follow up on his communications, to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries and to enter into a constructive dialogue with the Special Rapporteur on requested visits to their countries as well as with respect to the follow-up to his recommendations;

"33. *Stresses* the need for the continued regular exchange of views among the Committee, the Subcommittee, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations Crime Prevention and Criminal Justice Programme, with regional organizations and mechanisms, as appropriate, and civil society organizations, including non-governmental organizations, with a view to enhancing further their effectiveness and cooperation on issues relating to the prevention and eradication of torture, inter alia, by improving their coordination;

"34. *Recognizes* the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, appeals to all States and organizations to contribute annually to the Fund, preferably with a substantial increase in the level of contributions, and encourages contributions to the Special Fund established by the Optional Protocol to help finance the implementation of the recommendations made by the Subcommittee as well as education programmes of the national preventive mechanisms;

"35. *Requests* the Secretary-General to continue to transmit to all States the appeals of the General Assembly for contributions to the Funds and to include the Funds on an annual basis among the programmes for which funds

are pledged at the United Nations Pledging Conference for Development Activities;

"36. *Also requests* the Secretary-General to submit to the Human Rights Council and to the General Assembly at its sixty-fifth session a report on the operations of the Funds;

"37. *Further requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in preventing and combating torture and assisting victims of torture or other cruel, inhuman or degrading treatment or punishment, including in particular the Subcommittee on Prevention of Torture, commensurate with the strong support expressed by Member States for preventing and combating torture and assisting victims of torture;

"38. *Calls upon* all States, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and civil society organizations, including non-governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

"39. *Decides* to consider at its sixty-fifth session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture and the Special Fund established by the Optional Protocol, the report of the Committee against Torture and the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment."

20. At its 40th meeting, on 10 November, the Committee had before it a revised draft resolution entitled "Torture and other cruel, inhuman or degrading treatment or punishment" (A/C.3/64/L.23/Rev.1), submitted by the sponsors of draft resolution A/C.3/64/L.23 and Burkina Faso, Burundi, Côte d'Ivoire, Jordan, Maldives, Mali, Nicaragua, Panama, Turkey, Ukraine and Venezuela (Bolivarian Republic of). Subsequently, Angola, Belize, Chad, Morocco and San Marino joined in sponsoring the draft resolution.

21. At the same meeting, the Committee adopted draft resolution A/C.3/64/L.23/Rev.1 without a vote (see para. 25, draft resolution II).

C. Draft resolution A/C.3/64/L.24

22. At the 34th meeting, on 29 October, the representative of New Zealand, on behalf of Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Denmark, Ecuador, Germany, Guatemala, Honduras, Hungary, Iceland, Ireland, Japan, Jordan, Luxembourg, Mexico, Montenegro, the Netherlands, New Zealand, Nicaragua, Nigeria, Panama, Peru, Portugal, Qatar, the Republic of Korea, the Republic of Moldova, San Marino, Senegal, Serbia, Sweden, Togo, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, the United States of America and Uruguay, introduced a draft resolution, entitled "Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto" (A/C.3/64/L.24).

23. At the 42nd meeting, on 12 November, the representative of Mexico announced that Algeria, Bangladesh, Bolivia (Plurinational State of), Cambodia, the Comoros, Côte d'Ivoire, Cuba, the Czech Republic, the Dominican Republic, Ghana, Guinea, Indonesia, Israel, Lebanon, Liberia, Malta, Mauritius, Myanmar, Norway, Poland, the Russian Federation, Saudi Arabia, Seychelles, Sierra Leone, Suriname, Thailand, Tunisia, Turkmenistan and Ukraine had joined in sponsoring the draft resolution. Subsequently, Afghanistan, Albania, Angola, Antigua and Barbuda, Armenia, Azerbaijan, Barbados, Belize, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, the Congo, Cyprus, Egypt, El Salvador, Estonia, Ethiopia, Finland, France, the Gambia, Georgia, Greece, Guyana, Haiti, India, Italy, Jamaica, Kazakhstan, Kenya, Latvia, Lesotho, Lithuania, Madagascar, Malawi, Mali, Morocco, Namibia, the Niger, Paraguay, the Philippines, Romania, Rwanda, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, the Sudan, Swaziland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Uganda and Yemen joined in sponsoring the draft resolution.

24. At the same meeting, the Committee adopted draft resolution A/C.3/64/L.24 without a vote (see para. 25, draft resolution III).

III. Recommendations of the Third Committee

25. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
International Covenants on Human Rights

The General Assembly,

Recalling its resolution 62/147 of 18 December 2007 and Commission on Human Rights resolution 2004/69 of 21 April 2004,[1]

Mindful that the International Covenants on Human Rights[2] constitute the first all-embracing and legally binding international treaties in the field of human rights and, together with the Universal Declaration of Human Rights,[3] form the core of the International Bill of Human Rights,

Recalling the International Covenant on Economic, Social and Cultural Rights[2] and the International Covenant on Civil and Political Rights,[2] and reaffirming that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated, that they should be treated in a fair and equal manner, on the same footing and with the same emphasis, and that the promotion and protection of one category of rights should never exempt or excuse States from the promotion and protection of the other rights,

Recalling also the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights[4] by the General Assembly on the occasion of the sixtieth anniversary of the Universal Declaration of Human Rights,

Recognizing the important role of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in examining the progress made by States parties in fulfilling the obligations undertaken in the International Covenants on Human Rights and the Optional Protocols thereto and in providing recommendations to States parties on their implementation,

Considering that the effective functioning of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights is indispensable for the full and effective implementation of the International Covenants on Human Rights,

Recognizing the importance of regional human rights instruments and monitoring mechanisms in complementing the universal system of promotion and protection of human rights,

1. *Reaffirms* the importance of the International Covenants on Human Rights[2] as major components of international efforts to promote universal respect for and observance of human rights and fundamental freedoms;

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[1] See *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.

[2] Resolution 2200 A (XXI), annex.

[3] Resolution 217 A (III).

[4] Resolution 63/117, annex.

2. *Strongly appeals* to all States that have not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights[2] and the International Covenant on Civil and Political Rights,[2] and to consider acceding to the Optional Protocols thereto and making the declarations provided for in article 41 of the International Covenant on Civil and Political Rights and in articles 10 and 11 of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and, while acknowledging that additional States have recently become parties to these instruments, requests the Secretary-General to continue to support the annual treaty event to this end;

3. *Acknowledges* the ceremony of opening for signature of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 24 September 2009 during the 2009 treaty event and the signatures deposited at the event, with a view to its entry into force;

4. *Invites* the United Nations High Commissioner for Human Rights to intensify systematic efforts to encourage States to become parties to the International Covenants on Human Rights with a view to achieving universal adherence and, through the programme of advisory services in the field of human rights, to assist such States, at their request, in ratifying or acceding to the Covenants and to the Optional Protocols thereto;

5. *Calls for* the strictest compliance by States parties with their obligations under the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and, where applicable, the Optional Protocols thereto;

6. *Emphasizes* that States must ensure that any measure to combat terrorism complies with their obligations under relevant international law, including their obligations under the International Covenants on Human Rights;

7. *Stresses* the importance of avoiding the erosion of human rights by derogation, and recalls that certain rights are recognized as non-derogable in any circumstances, underlines the exceptional and temporary nature of any such derogations, and that they must be in accordance with the conditions and procedures stipulated under article 4 of the International Covenant on Civil and Political Rights, bearing in mind the need for States parties to provide the fullest possible information during states of emergency so that the justification for the appropriateness of measures taken in those circumstances can be assessed, and in this regard takes note of General Comment No. 29 adopted by the Human Rights Committee;[5]

8. *Encourages* States parties to consider limiting the extent of any reservations that they lodge to the International Covenants on Human Rights and the Optional Protocols thereto, to formulate any reservations as precisely and narrowly as possible and to regularly review such reservations with a view to withdrawing them so as to ensure that no reservation is incompatible with the object and purpose of the relevant treaty;

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[5] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex VI.

9. *Welcomes* the annual reports of the Human Rights Committee submitted to the General Assembly at its sixty-third[6] and sixty-fourth[7] sessions;

10. *Also welcomes* the reports of the Committee on Economic, Social and Cultural Rights on its thirty-eighth and thirty-ninth sessions[8] and on its fortieth and forty-first sessions,[9] and takes note of the General Comments adopted by the Committee, including the most recent, General Comment No. 19 on the right to social security,[10] and General Comment No. 20 on non-discrimination in economic, social and cultural rights;[11]

11. *Expresses regret* at the number of States parties that have failed to fulfil their reporting obligations under the International Covenants on Human Rights, urges States parties to fulfil their reporting obligations on time, invites them to make use of the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents,[12] when submitting reports, and urges States to attend and participate in the consideration of the reports by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights when so requested;

12. *Urges* States parties to make use in their reports of sex-disaggregated data, and stresses the importance of integrating a gender perspective in the implementation of the International Covenants on Human Rights at the national level, including in the national reports of States parties and in the work of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights;

13. *Strongly encourages* States parties that have not yet submitted core documents to the Office of the United Nations High Commissioner for Human Rights to do so, invites them to make use of the harmonized guidelines on reporting, and also invites all States parties regularly to review and update their core documents while bearing in mind the current discussion on the elaboration of an expanded core document;

14. *Urges* States parties to take duly into account, in implementing the provisions of the International Covenants on Human Rights, the recommendations and observations made during the consideration of their reports by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, and urges States parties to the respective Optional Protocols to take duly into account the views adopted by the Human Rights Committee under the first Optional Protocol to the International Covenant on Civil and Political Rights[2] and the Committee on Economic, Social and Cultural Rights under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights following its entry into force;

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[6] Ibid., *Sixty-third Session, Supplement No. 40* (A/63/40), vols. I and II.

[7] Ibid., *Sixty-fourth Session, Supplement No. 40* (A/64/40), vols. I and II.

[8] *Official Records of the Economic and Social Council, 2008, Supplement No. 2* (E/2008/22).

[9] Ibid., *2009, Supplement No. 2* (E/2009/22).

[10] Ibid., *2008, Supplement No. 2* (E/2008/22).

[11] E/C.12/GC/20.

[12] HRI/GEN/2/Rev.5; *Official Records of the Economic and Social Council, 2009, Supplement No. 2* (E/2009/22), annex VIII.

15. *Takes note with appreciation*, in this regard, of measures taken by both Committees to follow up their concluding observations;

16. *Urges* all States to publish the texts of the International Covenants on Human Rights and the Optional Protocols thereto in as many local languages as possible and to distribute them and make them known as widely as possible to all individuals within their territory and subject to their jurisdiction;

17. *Urges* each State party to give particular attention to the dissemination at the national level of their reports submitted to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights and, further, to translate, publish and make available as widely as possible to all individuals within its territory and subject to its jurisdiction by appropriate means the full text of the recommendations and observations made by the Committees after the examination of those reports;

18. *Reiterates* that States parties should take into account, in their nomination of members to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, that the Committees shall be composed of persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience, and to equal representation of women and men, and that members serve in their personal capacity, and also reiterates that, in the elections to the Committees, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems;

19. *Invites* the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, when considering the reports of States parties, to continue to identify specific needs that might be addressed by United Nations departments, funds and programmes and the specialized agencies, including through the programme of advisory services and technical cooperation of the Office of the United Nations High Commissioner for Human Rights;

20. *Stresses* the need for improved coordination among relevant United Nations mechanisms and bodies in supporting States parties, upon their request, in implementing the International Covenants on Human Rights and the Optional Protocols thereto, and encourages continued efforts in this direction;

21. *Expresses its appreciation* for the efforts made thus far by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to improve the efficiency of their working methods, encourages the Committees to pursue their efforts, welcomes in this regard the meetings held by the Committees and States parties to exchange ideas on how to render the working methods of the Committees more efficient, and encourages all States parties to continue to contribute to the dialogue with practical and concrete proposals and ideas on ways to improve the effective functioning of the Committees;

22. *Encourages* the specialized agencies that have not yet done so to submit their reports on the progress made in achieving the observance of the provisions of the International Covenant on Economic, Social and Cultural Rights, in accordance with article 18 of the Covenant, and expresses its appreciation to those that have done so;

23. *Encourages* the Secretary-General to continue to assist States parties to the International Covenants on Human Rights in the timely preparation of their reports, including by convening seminars or workshops at the national level for the training of government officials engaged in the preparation of such reports and by exploring other possibilities at the request of States, such as the programme of advisory services and technical cooperation in the field of human rights;

24. *Requests* the Secretary-General to ensure that the Office of the United Nations High Commissioner for Human Rights and relevant United Nations entities effectively assist the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in the implementation of their respective mandates by providing, inter alia, adequate Secretariat staff resources and conference and other relevant support services, including translation;

25. *Also requests* the Secretary-General to keep the General Assembly informed of the status of the International Covenants on Human Rights and the Optional Protocols thereto, including all reservations and declarations, through the United Nations websites.

Draft resolution II
Torture and other cruel, inhuman or degrading treatment or punishment

The General Assembly,

Reaffirming that no one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment,

Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in times of international or internal armed conflict or disturbance, and that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments,

Recalling also that the prohibition of torture is a peremptory norm of international law and that international, regional and domestic courts have held the prohibition of cruel, inhuman or degrading treatment or punishment to be customary international law,

Recalling further the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[1] without prejudice to any international instrument or national legislation which contains or may contain provisions of wider application,

Emphasizing the importance of properly interpreting and implementing the obligations of States with respect to torture and other cruel, inhuman or degrading treatment or punishment, and of abiding strictly by the definition of torture contained in article 1 of the Convention,

Noting that under the Geneva Conventions of 1949,[2] torture and inhuman treatment are a grave breach and that under the statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, the statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the Rome Statute of the International Criminal Court,[3] acts of torture can constitute crimes against humanity and, when committed in a situation of armed conflict, constitute war crimes,

Emphasizing that the entry into force as soon as possible of the International Convention for the Protection of All Persons from Enforced Disappearance[4] and its implementation will make a significant contribution to the prevention and prohibition of torture, including by prohibiting secret places of detention, and encouraging all States that have not done so to consider signing, ratifying or acceding to the Convention,

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[1] United Nations, *Treaty Series*, vol. 1465, No. 24841.

[2] Ibid., vol. 75, Nos. 970-973.

[3] Ibid., vol. 2187, No. 38544.

[4] Resolution 61/177, annex.

Commending the persistent efforts of civil society organizations, including non-governmental organizations, national human rights institutions and the considerable network of centres for the rehabilitation of victims of torture, to combat torture and to alleviate the suffering of victims of torture,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat all acts of torture and other cruel, inhuman or degrading treatment or punishment, stresses that all acts of torture must be made offences under domestic criminal law, and encourages States to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment;

3. *Welcomes* the establishment of national preventive mechanisms to prevent torture, encourages all States that have not yet done so to establish such mechanisms, and calls upon States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[5] to fulfil their obligation to designate or establish truly independent and effective national preventive mechanisms for the prevention of torture;

4. *Emphasizes* the importance of States' ensuring proper follow-up to the recommendations and conclusions of the relevant treaty bodies and mechanisms, including the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment;

5. *Condemns* any action or attempt by States or public officials to legalize, authorize or acquiesce in torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions;

6. *Stresses* that an independent, competent domestic authority must promptly, effectively and impartially examine all allegations of torture or other cruel, inhuman or degrading treatment or punishment and wherever there is reasonable ground to believe that such an act has been committed, and that those who encourage, order, tolerate or perpetrate such acts must be held responsible, brought to justice and punished in a manner commensurate with the severity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed;

7. *Takes note* in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles)[6] as a useful tool in efforts to prevent and combat torture and of the updated set of principles for the protection of human rights through action to combat impunity;[7]

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[5] Resolution 57/199, annex.

[6] Resolution 55/89, annex.

[7] See E/CN.4/2005/102/Add.1.

8. *Calls upon* all States to implement effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment, particularly in places of detention and other places where persons are deprived of their liberty, including education and training of personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;

9. *Also calls upon* all States to adopt a gender-sensitive approach in the fight against torture and other cruel, inhuman or degrading treatment or punishment, paying special attention to gender-based violence;

10. *Calls upon* States to ensure that the rights of persons with disabilities, bearing in mind the Convention on the Rights of Persons with Disabilities,[8] are fully integrated into torture prevention and protection, and welcomes the efforts of the Special Rapporteur in this regard;

11. *Encourages* all States to ensure that persons convicted of torture or other cruel, inhuman or degrading treatment or punishment have no subsequent involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty;

12. *Emphasizes* that acts of torture in armed conflict are serious violations of international humanitarian law and in this regard constitute war crimes, that acts of torture can constitute crimes against humanity and that the perpetrators of all acts of torture must be prosecuted and punished;

13. *Strongly urges* States to ensure that no statement that is established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment;

14. *Stresses* that States must not punish personnel for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

15. *Urges* States not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement;

16. *Recalls* that, for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights;

17. *Calls upon* States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[1] to fulfil their obligation to submit for prosecution or extradite those alleged to have committed acts of torture, and encourages other States to do likewise, bearing in mind the need to fight impunity;

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[8] Resolution 64/106, annex I.

18. *Stresses* that national legal systems must ensure that victims of torture and other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social and medical rehabilitation, urges States to take effective measures to this end, and in this regard encourages the development of rehabilitation centres;

19. *Recalls* its resolution 43/173 of 9 December 1988 on the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and in this context stresses that ensuring that any individual arrested or detained is promptly brought before a judge or other independent judicial officer in person and permitting prompt and regular medical care and legal counsel as well as visits by family members and independent monitoring mechanisms are effective measures for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

20. *Reminds* all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished;

21. *Emphasizes* that conditions of detention must respect the dignity and human rights of detainees, highlights the importance of reflecting on this in efforts to promote respect for and protection of the rights of detainees, and notes in this regard concerns about solitary confinement;

22. *Calls upon* all States to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment;

23. *Urges* all States that have not yet done so to become parties to the Convention as a matter of priority, and calls upon States parties to give early consideration to signing and ratifying the Optional Protocol to the Convention;

24. *Urges* all States parties to the Convention that have not yet done so to make the declarations provided for in articles 21 and 22 concerning inter-State and individual communications, to consider the possibility of withdrawing their reservations to article 20, and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 with a view to enhancing the effectiveness of the Committee against Torture as soon as possible;

25. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles and persons with disabilities when submitting reports to the Committee;

26. *Welcomes* the work of the Committee and its report submitted in accordance with article 24 of the Convention,[9] recommends that the Committee

[9] *Official Records of the General Assembly, Sixty-third Session, Supplement No. 44* (A/63/44).

continue to include information on the follow-up by States to its recommendations, and supports the Committee in its intention to further improve the effectiveness of its working methods;

27. *Invites* the Chairpersons of the Committee and the Subcommittee to present oral reports on the work of the committees and to engage in an interactive dialogue with the General Assembly at its sixty-fifth session under the sub-item entitled "Implementation of human rights instruments";

28. *Calls upon* the United Nations High Commissioner for Human Rights, in conformity with her mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to continue to provide, at the request of States, advisory services for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, including for the preparation of national reports to the Committee and for the establishment and operation of national preventive mechanisms, as well as technical assistance for the development, production and distribution of teaching material for this purpose;

29. *Takes note with appreciation* of the interim report of the Special Rapporteur,[10] and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture and other cruel, inhuman or degrading treatment or punishment, including its gender-based manifestations;

30. *Requests* the Special Rapporteur to continue to consider including in his report information on the follow-up by States to his recommendations, visits and communications, including progress made and problems encountered, and on other official contacts;

31. *Calls upon* all States to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to fully and expeditiously respond to and follow up on his urgent appeals, to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries and to enter into a constructive dialogue with the Special Rapporteur on requested visits to their countries as well as with respect to the follow-up to his recommendations;

32. *Stresses* the need for the continued regular exchange of views among the Committee, the Subcommittee, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations Crime Prevention and Criminal Justice Programme, with regional organizations and mechanisms, as appropriate, and civil society organizations, including non-governmental organizations, with a view to enhancing further their effectiveness and cooperation on issues relating to the prevention and eradication of torture, inter alia, by improving their coordination;

33. *Recognizes* the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, appeals to all States and organizations to contribute annually to the Fund, preferably with a substantial increase in the level of contributions, and encourages contributions to the Special Fund established by the Optional Protocol to help finance the implementation of the

[10] See A/64/215 and Corr.1.

recommendations made by the Subcommittee as well as education programmes of the national preventive mechanisms;

34. *Requests* the Secretary-General to continue to transmit to all States the appeals of the General Assembly for contributions to the Funds and to include the Funds on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

35. *Also requests* the Secretary-General to submit to the Human Rights Council and to the General Assembly at its sixty-fifth session a report on the operations of the Funds;

36. *Further requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in preventing and combating torture and assisting victims of torture or other cruel, inhuman or degrading treatment or punishment, including in particular the Subcommittee on Prevention of Torture, commensurate with the strong support expressed by Member States for preventing and combating torture and assisting victims of torture;

37. *Calls upon* all States, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and civil society organizations, including non-governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

38. *Decides* to consider at its sixty-fifth session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture and the Special Fund established by the Optional Protocol, the report of the Committee against Torture and the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

Draft resolution III
Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto

The General Assembly,

Recalling its previous relevant resolutions, the most recent of which was resolution 63/192 of 18 December 2008, as well as relevant resolutions of the Human Rights Council, the Commission for Social Development and the Commission on Human Rights,

1. *Welcomes* the fact that, since the opening for signature of the Convention on the Rights of Persons with Disabilities[1] and the Optional Protocol[2] thereto on 30 March 2007, one hundred and forty-three States have signed and seventy-one States have ratified the Convention and eighty-seven States have signed and forty-five States have ratified the Optional Protocol, and that one regional integration organization has signed the Convention;

2. *Calls upon* those States that have not yet done so to consider signing and ratifying the Convention and the Optional Protocol as a matter of priority;

3. *Welcomes* the holding of the second session of the Conference of States Parties to the Convention, from 2 to 4 September 2009, and the commencement of work of the Committee on the Rights of Persons with Disabilities;

4. *Also welcomes* the report of the Secretary-General[3] and the activities undertaken in support of the Convention;

5. *Encourages* the Inter-Agency Support Group on the Convention to continue its work to mainstream the Convention on the Rights of Persons with Disabilities throughout the United Nations system, and calls upon the Department of Economic and Social Affairs and the Office of the United Nations High Commissioner for Human Rights to continue strengthening their cooperation in this regard;

6. *Invites* the Secretary-General to intensify efforts to assist States to become parties to the Convention and the Optional Protocol, including by providing assistance with a view to achieving universal adherence;

7. *Requests* the Secretary-General to continue the progressive implementation of standards and guidelines for the accessibility of facilities and services of the United Nations system, taking into account relevant provisions of the Convention, in particular when undertaking renovations, including interim arrangements;

8. *Also requests* the Secretary-General to take further actions to promote the rights of persons with disabilities in the United Nations system in accordance with the Convention, including the retention and recruitment of persons with disabilities;

9. *Further requests* United Nations agencies and organizations, and invites intergovernmental and non-governmental organizations, to continue to strengthen

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[1] Resolution 61/106, annex I.

[2] Ibid., annex II.

[3] A/64/128 and Corr.1.

efforts undertaken to disseminate accessible information on the Convention and the Optional Protocol, including to children and young people to promote their understanding, and to assist States parties in implementing their obligations under those instruments;

10. *Requests* the Secretary-General to submit to the General Assembly at its sixty-sixth session a report on the status of the Convention and the Optional Protocol and the implementation of the present resolution.